

HOUSE BILL 743

R3
HB 1217/09 – JUD

0lr1067
CF SB 564

By: **Delegates Kramer, Ali, Barkley, Beidle, Benson, Bronrott, G. Clagett, Dumais, Eckardt, Elmore, Feldman, Frank, Frick, Frush, Gaines, Gilchrist, Guzzone, Hecht, Heller, Holmes, Hubbard, Ivey, Kaiser, Krebs, Kullen, Lee, Levi, Manno, McComas, McConkey, Montgomery, Morhaim, Pena–Melnyk, Reznik, Rice, Riley, Rosenberg, Ross, Schuh, Shank, Shewell, Sophocleus, and Stein**

Introduced and read first time: February 5, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving Elimination Act**

3 FOR the purpose of altering the Motor Vehicle Administration’s authority to establish
4 an Ignition Interlock System Program to require the Administration to establish
5 the Program; requiring rather than authorizing the Administration to establish
6 a protocol for the Program by certain regulations; altering the circumstances
7 under which individuals may participate in the Program; requiring the
8 Administration to require an individual convicted of, or granted probation for,
9 certain alcohol–related driving offenses to participate in the Program for certain
10 minimum amounts of time; requiring the Administration to require a certain
11 individual to successfully complete the Program; requiring the Administration
12 to impose a certain license restriction for a certain minimum amount of time;
13 requiring the Administration to suspend the drivers’ licenses of certain
14 individuals who are in violation of the Program for certain amounts of time;
15 requiring the Administration to establish a certain fee; requiring individuals
16 who are in the Program to be monitored by the Administration and to pay a
17 certain fee under certain circumstances; requiring certain service providers to
18 demonstrate a certain ability under certain circumstances; altering the
19 authority of the Administration to require certain individuals to participate in
20 the Program; establishing that an individual shall be credited for any successful
21 participation in the Program that occurs before a hearing in court; providing a
22 certain mandatory minimum penalty for a person who is convicted of driving
23 while the person’s license to drive is suspended or revoked if the person’s license
24 to drive was suspended or revoked as a result of certain alcohol–related driving

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 offenses or a failure to successfully complete the Program; and generally
2 relating to participation in the Ignition Interlock System Program.

3 BY repealing and reenacting, with amendments,
4 Article – Transportation
5 Section 16–404.1(b) and (f) and 27–101(j)
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2009 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – Transportation
10 Section 27–107(g)(2)
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2009 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Transportation**

16 16–404.1.

17 (b) (1) The Administration [may] **SHALL** establish an Ignition Interlock
18 System Program.

19 (2) The Administration [may] **SHALL** establish a protocol for the
20 Program by regulations that require certain minimum standards for all service
21 providers who service, install, monitor, calibrate, and provide information on ignition
22 interlock systems and include requirements that:

23 (i) A service provider who applies to the Administration for
24 certification as an approved service provider shall demonstrate that the service
25 provider is able to competently service, install, monitor, calibrate, and provide
26 information **TO THE ADMINISTRATION AT LEAST EVERY 30 DAYS** on **INDIVIDUALS**
27 **REQUIRED TO USE** ignition interlock systems;

28 (ii) A service provider who applies to the Administration for
29 certification as an approved service provider shall be certified by a signed affidavit
30 from the manufacturer that the service provider has been trained by an authorized
31 manufacturer and that the service provider is competent to service, install, monitor,
32 calibrate, and provide information on ignition interlock systems;

33 (iii) Approved service providers be deemed to be authorized
34 representatives of a manufacturer; and

35 (iv) Any service of notice upon an approved service provider, who
36 has violated any laws or regulations or whose ignition interlock system has violated

1 any laws or regulations, be deemed as service upon the manufacturer who certified the
2 approved service provider.

3 (3) An individual may be a participant if:

4 (i) The individual's license is suspended or revoked for a
5 violation of [§ 21-902(a), (b), or (c)] **§ 21-902(C)** of this article or an accumulation of
6 points under § 16-402(a)(25) or (34) of this subtitle **FOR A VIOLATION OF §**
7 **21-902(C) OF THIS ARTICLE;**

8 (ii) [The individual is ordered to participate in the Program by a
9 court under § 27-107 of this article;

10 (iii)] The individual's license has an alcohol restriction imposed
11 under § 16-113(b) or (g) of this title; or

12 [(iv)] **(III)** The Administration modifies a suspension or issues a
13 restrictive license to the individual under § 16-205.1(b)(3)(vii) or (n)(2) or (4) of this
14 title.

15 **(4) AN INDIVIDUAL SHALL BE A PARTICIPANT IF THE INDIVIDUAL**
16 **IS CONVICTED OF, OR GRANTED PROBATION UNDER § 6-220(C) OF THE**
17 **CRIMINAL PROCEDURE ARTICLE FOR, A VIOLATION OF § 21-902(A) OR (B) OF**
18 **THIS ARTICLE.**

19 **[(4)] (5)** The Administration may:

20 (i) Issue a restrictive license to an individual who is a
21 participant in the Program during the suspension period as provided under §
22 16-404(c)(3) of this subtitle;

23 (ii) Reinstate the driver's license of a participant whose license
24 has been revoked for a violation of § 21-902(a), (b), or (c) of this article or revoked for
25 an accumulation of points under § 16-402(a)(34) of this subtitle for a violation of §
26 21-902(a) of this article; and

27 (iii) Notwithstanding any other provision of law, impose on a
28 participant a period of suspension in accordance with § 16-404(c)(2) and (3) of this
29 subtitle in lieu of a license revocation for:

30 1. A violation of § 21-902(a), (b), or (c) of this article; or

31 2. An accumulation of points under § 16-402(a)(34) of
32 this subtitle for a violation of § 21-902(a) of this article.

1 **[(5)] (6)** A notice of suspension or revocation sent to an individual under
2 this title shall include information about the Program and how the individual can
3 qualify for admission to **OR BE REQUIRED TO PARTICIPATE IN** the Program.

4 **(7)** **IN THE CASE OF AN INDIVIDUAL WHO IS CONVICTED OF, OR**
5 **GRANTED PROBATION UNDER § 6-220(C) OF THE CRIMINAL PROCEDURE**
6 **ARTICLE FOR, A VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE, IN**
7 **ADDITION TO ANY OTHER PENALTIES REQUIRED UNDER THIS ARTICLE, THE**
8 **ADMINISTRATION SHALL:**

9 **(I)** **UNLESS A COURT ORDERS A LONGER PERIOD OF**
10 **PROGRAM PARTICIPATION UNDER § 27-107 OF THIS ARTICLE, REQUIRE THE**
11 **INDIVIDUAL TO PARTICIPATE IN THE PROGRAM FOR NOT LESS THAN:**

- 12 1. **6 MONTHS FOR A FIRST VIOLATION;**
- 13 2. **1 YEAR FOR A SECOND VIOLATION; AND**
- 14 3. **3 YEARS FOR A THIRD OR SUBSEQUENT**
15 **VIOLATION;**

16 **(II)** **REQUIRE THE INDIVIDUAL TO SUCCESSFULLY**
17 **COMPLETE THE PROGRAM;**

18 **(III)** **SUBJECT TO § 27-107(G)(2) OF THIS ARTICLE, IMPOSE**
19 **A RESTRICTION ON THE INDIVIDUAL'S LICENSE THAT PROHIBITS THE**
20 **INDIVIDUAL FROM DRIVING A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN**
21 **IGNITION INTERLOCK SYSTEM FOR THE PERIOD OF TIME THAT THE INDIVIDUAL**
22 **IS REQUIRED TO PARTICIPATE IN THE PROGRAM UNDER THIS PARAGRAPH; AND**

23 **(IV)** **IF THE INDIVIDUAL FAILS TO SUCCESSFULLY**
24 **COMPLETE THE PROGRAM AS REQUIRED, SUSPEND THE INDIVIDUAL'S DRIVER'S**
25 **LICENSE OF A PERIOD OF:**

- 26 1. **6 MONTHS FOR A FIRST VIOLATION OF §**
27 **21-902(A) OR (B) OF THIS ARTICLE; AND**

- 28 2. **1 YEAR FOR A SECOND OR SUBSEQUENT**
29 **VIOLATION OF § 21-902(A) OR (B) OF THIS ARTICLE.**

30 **[(6)] (8)** The Administration [may] **SHALL** establish a fee for the
31 Program **THAT IS SUFFICIENT TO COVER THE COSTS OF THE PROGRAM.**

1 (f) (1) An individual required to use an ignition interlock system under a
2 court order **OR UNDER THIS SECTION:**

3 (i) Shall be monitored by the Administration; and

4 (ii) [Shall] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF**
5 **THIS SUBSECTION, SHALL** pay the fee required by the Administration under
6 subsection [(b)(6)] **(B)(8)** of this section.

7 **(2) THE FEE REQUIRED UNDER THIS SUBSECTION SHALL BE**
8 **WAIVED FOR AN INDIVIDUAL WHO IS INDIGENT.**

9 **[(2)] (3)** A court order that requires the use of an ignition interlock
10 system is not affected by § 16–404(c)(3) of this subtitle.

11 **(4) AN INDIVIDUAL SHALL BE CREDITED FOR ANY SUCCESSFUL**
12 **PARTICIPATION IN THE PROGRAM THAT OCCURS BEFORE A HEARING IN COURT.**

13 27–101.

14 (j) (1) In this subsection, “imprisonment” includes confinement in:

15 (i) An inpatient rehabilitation or treatment center; or

16 (ii) Home detention that includes electronic monitoring for the
17 purpose of participating in an alcohol treatment program that is:

18 1. Certified by the Department of Health and Mental
19 Hygiene;

20 2. Certified by an agency in an adjacent state that has
21 powers and duties similar to the Department of Health and Mental Hygiene; or

22 3. Approved by the court.

23 (2) (i) A person who is convicted of a violation of § 21–902(a) of this
24 article within 5 years after a prior conviction under that subsection is subject to a
25 mandatory minimum penalty of imprisonment for not less than 5 days.

26 (ii) A person who is convicted of a third or subsequent offense
27 under § 21–902(a) of this article within 5 years is subject to a mandatory minimum
28 penalty of imprisonment for not less than 10 days.

29 (3) (i) A person who is convicted of a violation of § 21–902(d) of this
30 article within 5 years after a prior conviction under that subsection is subject to a
31 mandatory minimum penalty of imprisonment for not less than 5 days.

1 (ii) A person who is convicted of a third or subsequent offense
2 under § 21–902(d) of this article within 5 years is subject to a mandatory minimum
3 penalty of imprisonment for not less than 10 days.

4 (4) A person who is convicted of an offense under § 21–902(a) of this
5 article within 5 years of a prior conviction of any offense under that subsection shall be
6 required by the court to:

7 (i) Undergo a comprehensive alcohol abuse assessment; and

8 (ii) If recommended at the conclusion of the assessment,
9 participate in an alcohol program as ordered by the court that is:

10 1. Certified by the Department of Health and Mental
11 Hygiene;

12 2. Certified by an agency in an adjacent state that has
13 powers and duties similar to the Department of Health and Mental Hygiene; or

14 3. Approved by the court.

15 (5) A person who is convicted of an offense under § 21–902(d) of this
16 article within 5 years of a prior conviction of any offense under that subsection shall be
17 required by the court to:

18 (i) Undergo a comprehensive drug abuse assessment; and

19 (ii) If recommended at the conclusion of the assessment,
20 participate in a drug program as ordered by the court that is:

21 1. Certified by the Department of Health and Mental
22 Hygiene;

23 2. Certified by an agency in an adjacent state that has
24 powers and duties similar to the Department of Health and Mental Hygiene; or

25 3. Approved by the court.

26 (6) **A PERSON WHO IS CONVICTED OF AN OFFENSE UNDER §**
27 **16–303(C) OR (D) OF THIS ARTICLE FOR DRIVING WHILE THE PERSON’S LICENSE**
28 **TO DRIVE IS SUSPENDED OR REVOKED IS SUBJECT TO A MANDATORY MINIMUM**
29 **PENALTY OF IMPRISONMENT FOR NOT LESS THAN 5 DAYS, IF THE LICENSE TO**
30 **DRIVE WAS SUSPENDED OR REVOKED AS RESULT OF A VIOLATION OF §**
31 **21–902(A) OR (B) OF THIS ARTICLE OR A FAILURE TO SUCCESSFULLY COMPLETE**

1 THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS
2 ARTICLE.

3 (7) The penalties provided by this subsection are mandatory and are
4 not subject to suspension or probation.

5 27-107.

6 (g) (2) If a person is required, in the course of the person's employment, to
7 operate a motor vehicle owned or provided by the person's employer, the person may
8 operate that motor vehicle in the course of the person's employment without
9 installation of an ignition interlock system if the court or the Administration has
10 expressly permitted the person to operate in the course of the person's employment a
11 motor vehicle that is not equipped with an ignition interlock system.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2010.